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Notice of Allowability

Application No.

10/713,975

Examiner

David N. Spector

Applicant(s)

ENDO, TARO

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE (w/amendment) filed 03/07/2005 and preliminary amendment filed 03/31/2005.
2. ☒ The allowed claim(s) is/are 1-15.
3. ☒ The drawings filed on 13 November 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>0305/20051113</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>DETAILED ACTION.</u> |

DETAILED ACTION - ALLOWANCE***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under Ex Parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on March 7, 2005 has been entered. A supplementary preliminary amendment filed March 31, 2005 was also received and entered. Claims 1-15 are now pending in the instant application.

Notice of Allowability

Claims 1-15 are allowed. All pending claims thus being allowable, prosecution on the merits is closed in this application. A statement of the examiner's reasons for allowance is provided in the paragraph which follows below.

Reasons for Allowance

The instant application is deemed to be directed to a nonobvious improvement the invention of Uno (U.S. Patent No. 6,535,326) disclosed by applicant as being a representative example in the art to which the instant invention pertains. The instant invention provides first and second electrodes disposed on a substrate, with partition wall disposed at a position defining a pixel between said first and second substrates, in a particular arrangement where the first electrode has an areal proportion of 0.1% - 80 per an area of display pixel and is disposed in a scattering layer having a thickness of 1-100 μm , and the second electrode constitutes a part of the partition wall as recited in the last three lines of independent claim 1; or alternatively, where an areal proportion of the first electrode to said pixel is 0.5-10% and an areal proportion of the first scattering layer to said pixel area is 99.5-90%, and the second electrode constitutes a part of the partition wall as recited in independent claim 11.

The prior art taken either singly or in combination fails to anticipate or fairly suggest the limitations of applicant's independent claims, in such a manner that a rejection under 35 U.S.C. 102

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or 103 would be proper. In particular, the thickness of the scattering layer disclosed in JP 09-211499 A (Toshiba Corp.) has a thickness of only 0.5 μm (e.g. JP 09-211499 was none the less cited as an x-type reference for claims 1, 6-8, and 10 in a search report PCT/ISA/210 prepared for the International Application PCT/JP03/14380 corresponding to the instant application). The claimed invention is therefore considered to be in condition for allowance as being novel and nonobvious over prior art.

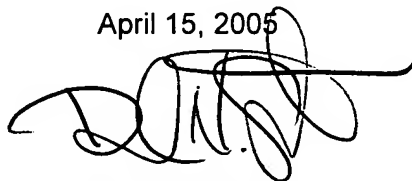
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Other Remarks/Information

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any other inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Spector whose telephone number is (571) 272-2338. The examiner can normally be reached at this number Monday through Friday between 6:00 AM and 2:30 PM. The fax number for the organization where this application is assigned is (703) 872-9306.

April 15, 2005



DAVID N. SPECTOR
PRIMARY EXAMINER